

ORIGINAL



MEMORANDUM

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TO: Docket Control
Arizona Corporation Commission

2005 DEC -5 P 12: 01

FROM: Ernest G. Johnson
Director
Utilities Division

AZ CORP COMMISSION
DOCUMENT CONTROL

DATE: December 5, 2005

RE: BEAVER VALLEY WATER COMPANY – MOTION TO EXTEND
COMPLIANCE DEADLINES.
DECISION NO. 68083. DOCKET NO. W-02015A-03-0724

In Decision No. 68083, dated August 17, 2005, the Arizona Corporation Commission ("A.C.C." or "Commission") ordered Beaver Valley Water Company ("Beaver Valley" or "Company") to timely comply with ordering paragraphs pertaining to the following:

- 1) Demonstration that the company was being transferred free and clear.
- 2) Filing of evidence regarding Arizona Department of Environmental Quality ("ADEQ") water quality compliance.
- 3) Calculating the rate overcharge amount for each customer for each month after November 2003.
- 4) Noticing its customers of the overcharges and the manner in which credits will be applied, in a form acceptable to Commission Staff, by means of an insert in its regular monthly billing.
- 5) Refund to its customers credits as described in the decision.

While Decision No. 68083 provided that items number 1-4 (above) should be completed within 90 days of the effective date of the decision, it provided no specific date for the completion of item number 5. Items 1 and 3 were completed within the contemplated period but item number 3 still requires review by Staff. Items 2, 4 and 5 are uncompleted. In order to address these remaining issues, the Company made an additional filing to address the pending deadlines.

On November 14, 2005, Beaver Valley filed a request for a forty-five day extension to comply with the deadlines associated with Decision No. 68083. Although the Company's request does not provide detail regarding the reasons that the extension is necessary, Staff is aware of the ownership and operation disconnect that has existed due to several parties (Delaney/Ward and a potential owner) being involved in this situation. Staff has had a number of telephonic discussions with the parties and conducted a meeting with the parties and Staff personnel on November 10, 2005.

During that meeting, the parties agreed in principle to a path that would result in Mr. Delaney (and presumably Mr. Ward) deeding the water company to the potential owner

once the compliance items associated with Decision No. 68083 were completed. After that meeting, Mr. Delaney composed the letter requesting the extension of time on the compliance items of Decision No. 68083. The individual statement about deeding the company to the potential owner is outlined in Mr. Delaney's extension request, which is attached hereto.

Staff believes that the formulation of an agreement which would address the ultimate dispensation of the Company and the direction of the ownership issue is paramount to any diplomatic solution in this case. In this respect, significant progress has been made. However, the Compliance items in Decision No. 68083 are not yet fully completed and could take some time to be completed. The status of the above items from Decision No. 68083 are as follows:

- 1) Free and Clear - The filing relating to the company being transferred free and clear was received on November 1, 2005.
- 2) ADEQ - The filing of evidence regarding ADEQ water quality compliance has not been received and could take some time. Per an ADEQ status report dated July 5, 2005, the Company had monitoring and reporting deficiencies. Because of these deficiencies, ADEQ could not determine that the system was delivering water that meets water quality standards. As such, the Company is not able to meet the water quality compliance required in Decision No. 68083. Mr. Davoren indicated that he was aware of the issues with ADEQ and was seeking to address them. The timeline for this issue is not easily known.
- 3) Overcharge - The Company has made its filing showing the calculations of the rate overcharge amount for each customer for each month after November 2003. Staff received a copy of the disc (containing the overcharge calculations) on November 23, 2005 and has yet to review the calculations. Staff considers this review to be necessary as the overcharge calculation is a central issue to the resolution of this case.
- 4) Notification - The customer notification of the overcharges and method of refund via credit will be conducted after Staff reviews the calculation of the overcharge amounts.
- 5) Refund/Credit - The refund to its customers via a credit will take place after the customer notification has been completed.

The owners of Beaver Valley have an obligation to comply with the requirements of Decision No. 68083. If they do not, they are subject to significant fines. Since the application for sale of assets and transfer of the Certificate of Convenience and Necessity ("CC&N") has not been completed, the Arizona partnership of Mr. Delaney and Mr. Ward is recognized as the owner of Beaver Valley. It is therefore the partnerships responsibility to achieve compliance with the requirements of Decision No. 68083.

Staff remains concerned about Beaver Valley's ability to comply with the ADEQ compliance requirement in particular. Because of this concern, Staff recommends approval of the Company's request for a 45 day extension of time to comply with the

remaining compliance items (2, 3 (Staff review), 4 and 5) in Decision No. 68083, with the following condition:

If the compliance requirements are not completed by the end of the 45 day extension, Staff intends to initiate an Order to Show Cause ("OSC") against the owners of Beaver Valley, in which Staff will seek the maximum sanctions available.

Originator: Brian K. Bozzo

SERVICE LIST FOR:
DOCKET NO.

BEAVER VALLEY WATER COMPANY
W-02015A-03-0724

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AZ CORP COMMISSION
DOCUMENT CONTROL

November 14, 2005

Mr. Brian Bozzo
Compliance Manager, Utility Division
Arizona Corporation Commission
1200 W Washington
Phoenix AZ 85007

Re: W02015A-03-0724

Dear Mr. Bozzo:

We respectfully request a continuance of forty five (45) days or more to complete our compliance with the order rendered by the ACC on 8/17/05.

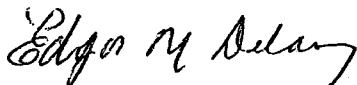
Paragraphs one and three have been completed in their entirety and filed in Docket Control. Paragraph two, dealing with ADEQ compliance, has not been completed because ADEQ will not have their completed ready until 11/18/05.

As noted in the hearing, you graciously conducted on 11/10/05, several deficiencies still exist.

As to paragraphs four and five, it was agreed to by all parties that additional time was needed to "notice its customers and the manner in which credits will be applied" in the Beaver Valley Water Company. As I stated at the hearing, only Mr. Dovoren has that information. You agreed that you would assist him in getting this done.

When we have completely complied with the order satisfactorily to both you and the ACC, and when Mr. Dovoren is certified as the owner, I shall deed the water company to him.

Please advise.


Edgar M. Delaney